

REMARKS

Applicants acknowledge receipt of the Office Action mailed October 29, 2009. Claims 6, 14 and 15 are cancelled. Thus, Claims 1-2, 4-5, 7-8, 10-13 and 16-17 are pending in the application. Applicants have carefully considered all rejections raised by the Examiner in the Office Action mailed October 29, 2009 and respond hereto in detail. Reconsideration and withdrawal of the present rejections in view of the amendments and comments presented herein are respectfully requested. In response to the Office Action, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the following comments.

Discussion of Priority Document (Japanese Patent Application No. 2002-229204)

The instant application claims priority of Japanese Patent Application No. 2002-229204 filed August 6, 2002 the entire contents of which were incorporated by reference in the preliminary amendment filed on February 3, 2005. A certified copy of the priority document, Japanese Patent Application No. 2002-229204, was filed on February 3, 2005.

In the Office Action, the Examiner states “[a]pplicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.” See page 5 item 9 of the instant Office Action.

The Applicants enclose herewith a certified translation of the priority application, Japanese Patent Application No. 2002-229204, to comply with the requirements under 37 CFR 1.55 to overcome the date of reference relied upon by the Examiner for rejection of Claims 4 and 5 under 35 U.S.C. § 102(e) and rejection of Claims 1-2, 4-8, 10-17 under 35 U.S.C. § 103(a).

Claims 1-2, 4-5, 7-8, 10-13, and 16-17 are fully supported by Japanese Patent Application No. 2002-229204 filed August 6, 2002. Thus, U.S. Patent No. 6,984,738, U.S. Patent No. 6,846,957 and U.S. Patent Publication No. 2004/0102651 are not available as prior art for Claims 1-2, 4-5, 7-8, 10-13, and 16-17.

Rejection of Claims 4 and 5 under 35 U.S.C. § 102(e)

The Examiner has rejected Claims 4 and 5 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,984,738. U.S. Patent No. 6,984,738 lists October 17, 2003 as its earliest U.S. filing date. Accordingly, October 17, 2003 is the relevant date for consideration of U.S.

Patent No. 6,984,738 under 35 U.S.C. § 102(e) as prior art. Claims 4 and 5 are fully supported by Japanese Patent Application No. 2002-229204 and maintain August 6, 2002 as their filing date. Thus, U.S. Pat. App. No. 6,984,738 is not available as prior art under 35 U.S.C. § 102(e) for Claims 4 and 5. Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 4 and 5 under 35 U.S.C. § 102(e) in view of U.S. Patent No. 6,984,738.

Rejection of Claim 6 under 35 U.S.C. § 103(a)

Claim 6 has been cancelled. Thus, the rejection of Claim 6 under 35 U.S.C. § 103(a) is moot. Accordingly, Applicants respectfully request withdrawal of the rejection of Claim 6 under 35 U.S.C. § 103(a).

Rejection of Claims 1-2, 4-8, 10-17 under 35 U.S.C. § 103(a)

The Examiner has rejected Claims 1-2, 4-8, 10-17 under 35 U.S.C. § 103(a) as being obvious over Zelenin (U.S. Patent No. 6,846,957 and U.S. Patent Publication No. 2004/0102651) in view of Yokozawa (U.S. Patent No. 6,984,738). Claims 1-2, 4-5, 7-8, 10-13, and 16-17 are fully supported by Japanese Patent Application No. 2002-229204 and maintain August 6, 2002 as their filing date. As discussed above, U.S. Patent No. 6,984,738 lists October 17, 2003 as its earliest U.S. filing date. Thus, October 17, 2003 is the relevant date for consideration of U.S. Patent No. 6,984,738 under 35 U.S.C. § 103(a) as prior art. Accordingly, U.S. Patent No. 6,984,738 is not available as prior art under 35 U.S.C. § 103(a) for Claims 1-2, 4-5, 7-8, 10-13, and 16-17.

Further, U.S. Patent No. 6,846,957 and U.S. Patent Publication No. 2004/0102651 list November 22, 2002 as their earliest U.S. filing date. Accordingly, November 22, 2002 is the relevant date for consideration of U.S. Patent No. 6,846,957 and U.S. Patent Publication No. 2004/0102651 under 35 U.S.C. § 103(a) as prior art. As discussed above, Claims 1, 2, 4-5, 7-8, 10-13, and 16-17 are fully supported by Japanese Patent Application No. 2002-229204 filed August 6, 2002. Thus, U.S. Patent No. 6,846,957 and U.S. Patent Publication No. 2004/0102651 are not available as prior art under 35 U.S.C. § 103(a) for Claims 1-2, 4-5, 7-8, 10-13, and 16-17. Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 1-2, 4-5, 7-8, 10-13, and 16-17 under 35 U.S.C. § 103(a) in view of U.S. Patent No. 6,984,738, U.S. Patent No. 6,846,957 and U.S. Patent Publication No. 2004/0102651.

Discussion of Obviousness-Type Double Patenting

In the Office Action, the Examiner provisionally rejected Claims 4 and 5 as being objected to under the judicially created doctrine of double patenting as being unpatentable over co-pending Application No. 11/989,100. In response, Applicants again respectfully request that the issue of obviousness-type double patenting rejection of Claims 4 and 5 be deferred until such time as either the present application or the co-pending application are in condition for allowance.

Additionally, the Examiner provisionally rejected Claims 6, 14 and 15 as being objected to under the judicially created doctrine of double patenting as being unpatentable over co-pending Application No. 11/989,100. Claims 6, 14 and 15 have been cancelled. Thus, the obviousness-type double patenting rejection of Claims 6, 14 and 15 is moot. Accordingly, Applicants respectfully request withdrawal of the obviousness-type double patenting rejection of Claims 6, 14 and 15.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Conclusion

In view of the foregoing Amendments and Remarks, Applicants respectfully submit that this application is in condition for examination and allowance. If there are any questions which may be answered by telephone, the Examiner is invited to call the undersigned directly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 5, 2010

By: /daniel altman/
Daniel E. Altman
Registration No. 34,115
Attorney of Record
Customer No. 20995
(949) 760-0404